

34A.7A Wireless communications surcharge — fund established — distribution and permissible expenditures.

1. *a.* Notwithstanding section 34A.6, the administrator shall adopt by rule a monthly surcharge of up to sixty-five cents to be imposed on each wireless communications service number provided in this state. The surcharge shall be imposed uniformly on a statewide basis and simultaneously on all wireless communications service numbers as provided by rule of the administrator.

b. The program manager shall provide no less than one hundred days' notice of the surcharge to be imposed to each wireless communications service provider. The program manager, subject to the sixty-five cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.

c. (1) The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available.

(2) In compensation for the costs of billing and collection, the wireless communications service provider may retain one percent of the gross surcharges collected.

(3) The surcharges shall be remitted quarterly by the wireless communications service provider to the program manager for deposit into the fund established in subsection 2.

(4) A wireless communications service provider is not liable for an uncollected surcharge for which the wireless communications service provider has billed a subscriber but which has not been paid.

2. Moneys collected pursuant to subsection 1 shall be deposited in a separate wireless E911 emergency communications fund within the state treasury under the control of the program manager. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. Moneys in the fund shall be expended and distributed in the following priority order:

a. An amount as appropriated by the general assembly to the administrator shall be allocated to the administrator and program manager for implementation, support, and maintenance of the functions of the administrator and program manager and to employ the auditor of state to perform an annual audit of the wireless E911 emergency communications fund.

b. The program manager shall allocate twenty-one percent of the total amount of surcharge generated to wireless carriers to recover their costs to deliver E911 phase 1 services. If the allocation in this paragraph is insufficient to reimburse all wireless carriers for such carrier's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

c. The program manager shall reimburse wire-line carriers on a calendar quarter basis for carriers' eligible expenses for transport costs between the selective router and the public safety answering points related to the delivery of wireless E911 phase 1 services.

d. The program manager shall reimburse wire-line carriers and third-party E911 automatic location information database providers on a calendar quarterly basis for the costs of maintaining and upgrading the E911 components and functionalities beyond the input to the E911 selective router, including the E911 selective router and the automatic location information database.

e. The program manager shall apply an amount up to five hundred thousand dollars per calendar quarter to any outstanding wireless E911 phase 1 obligations incurred pursuant to this chapter prior to July 1, 2004.

f. (1) The program manager shall allocate an amount up to one hundred fifty-nine thousand dollars per calendar quarter equally to the joint E911 service boards and the department of public safety that have submitted an annual written request to the program manager in a form approved by the program manager by May 15 of each year. The program manager shall allocate to each joint E911 service board and to the department of public safety a minimum of one thousand dollars per calendar quarter for each public safety answering point within the service area of the department of public safety or joint E911 service board.

(2) Upon retirement of outstanding obligations referred to in paragraph “e”, the amount allocated under this paragraph “f” shall be twenty-five percent of the total amount of surcharge generated per calendar quarter allocated as follows:

(a) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the service area to the total square miles in this state.

(b) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls taken at the public safety answering point in the service area to the total number of wireless E911 calls originating in this state.

(c) Notwithstanding subparagraph divisions (a) and (b), the minimum amount allocated to each joint E911 service board and to the department of public safety shall be no less than one thousand dollars for each public safety answering point within the service area of the department of public safety or joint E911 service board.

(3) The funds allocated in this paragraph “f” shall be used for communication equipment located inside the public safety answering points for the implementation and maintenance of wireless E911 phase 2. The joint E911 service boards and the department of public safety shall provide an estimate of phase 2 implementation costs to the program manager by January 1, 2005.

g. If moneys remain in the fund after fully paying all obligations under paragraphs “a” through “f”, the remainder may be accumulated in the fund as a carryover operating surplus. This surplus shall be used to fund future phase 2 network and public safety answering point improvements and wireless carriers’ transport costs related to wireless E911 services, if those costs are not otherwise recovered by wireless carriers through customer billing or other sources and approved by the program manager. Notwithstanding section 8.33, any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

h. The administrator, in consultation with the program manager and the E911 communications council, shall adopt rules pursuant to chapter 17A governing the distribution of the surcharge collected and distributed pursuant to this subsection. The rules shall include provisions that all joint E911 service boards and the department of public safety which answer or service wireless E911 calls are eligible to receive an equitable portion of the receipts.

3. a. The program manager shall submit an annual report by January 15 of each year to the general assembly’s standing committees on government oversight advising the general assembly of the status of E911 implementation and operations, including both wire-line and wireless services, the distribution of surcharge receipts, and an accounting of the revenues and expenses of the E911 program.

b. The program manager shall submit a calendar quarter report of the revenues and expenses of the E911 program to the fiscal services division of the legislative services agency.

c. The general assembly’s standing committees on government oversight shall review the priorities of distribution of funds under this chapter at least every two years.

4. The amount collected from a wireless service provider and deposited in the fund, pursuant to section 22.7, subsection 6, information provided by a wireless service provider to the program manager consisting of trade secrets, pursuant to section 22.7, subsection 3, and other financial or commercial operations information provided by a wireless service provider to the program manager, shall be kept confidential as provided under section 22.7. This subsection does not prohibit the inclusion of information in any report providing aggregate amounts and information which does not identify numbers of accounts or customers, revenues, or expenses attributable to an individual wireless communications service provider.

5. For purposes of this section, “*wireless communications service*” means commercial mobile radio service, as defined under sections 3(27) and 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq.; federal communications commission rules; and the Omnibus Budget Reconciliation Act of 1993. “*Wireless communications service*” includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. “*Wireless communications service*” does not include services whose customers do not have access to 911 or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

98 Acts, ch 1101, §9, 16; 99 Acts, ch 96, §5; 2004 Acts, ch 1175, §453 – 455; 2005 Acts, ch 140, §2; 2007 Acts, ch 213, §21; 2009 Acts, ch 41, §263; 2009 Acts, ch 86, §4